

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JUANA CRUZ, OFELIA )  
BENAVIDES, JOSE ELIAS N.G, )  
GABRIELA VELAZQUEZ, RICARDO )  
GONZALEZ, HELESIO CRUZ, )  
ANGELICA CHAVEZ, CONCEPCION )  
PEREZ, OLGA PEREZ, MAVRIGO )  
SAENZ, JORGE MAOLEON, HECTOR )  
SANCHEZ, HECTOR GONZALEZ, )  
YESSY PEREZ-MARTINEZ, MARIA )  
DE LOURDES CRUZ, RESENDO )  
LIEVANOS, ELIZABETH LARA, )  
LUIS ALBERTO )  
ZUNIGIA-CASTILLO, MIGUEL )  
CABALLERO SANCHEZ, GUILLERMO )  
DE LA CRUZ-MENDOZA, CARLOS )  
DANIEL LOPEZ, GILDA RIVAS, )  
ARMANDO MORALES DE LLANO, )  
LAZARO GARCIA, MARIA DE )  
JESUS MEDINA, RICARDO )  
ESQUIVEL, RAFAEL SANCHEZ, )  
GUILLERMO RUIZ, ROSA )  
QUINTANILLA, )  
PLAINTIFFS, )  
VS. )  
DELGAR FOODS LLC A/K/A )  
DELIA'S TAMALES, )  
DEFENDANT. )

CIVIL ACTION  
NO. 7:23-CV-00343  
  
JURY DEMANDED

\*\*\*\*\*

ORAL DEPOSITION OF

LUIS ZUNIGA

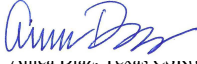
June 28, 2024

\*\*\*\*\*

<p>1 ORAL DEPOSITION of LUIS ZUNIGA, produced as a</p> <p>2 witness at the instance of the Defendant, and duly</p> <p>3 sworn, was taken in the above-styled and numbered cause</p> <p>4 on the 28th day of June, 2024, from 10:26 a.m. to</p> <p>5 12:12 p.m., before Anica Diaz, CSR, RPR, CRR, in and for</p> <p>6 the State of Texas, reported by machine shorthand, at</p> <p>7 the Law Offices of Ricardo Gonzalez, 124 South 12th</p> <p>8 Avenue, Edinburg, Texas, pursuant to the Federal Rules</p> <p>9 of Civil Procedure and the provisions stated on the</p> <p>10 record or attached.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p>	<p>1 I N D E X</p> <p>2 PAGE</p> <p>3 Appearances..... 03</p> <p>4 Exhibits..... 04</p> <p>5</p> <p>6 LUIS ZUNIGA</p> <p>7 Examination by Mr. Quezada..... 05</p> <p>8 Changes and Signature..... 49</p> <p>9 Reporter's Certificate..... 51</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 E X H I B I T S</p> <p>16 PAGE</p> <p>17 Defendant's Exhibit No. 1</p> <p>18 Questionnaire Filled out by</p> <p>19 Luis Zuniga..... 32</p> <p>20 Defendant's Exhibit No. 2</p> <p>21 Affidavit of Luis Zuniga..... 33</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 4</p>
<p>1 A P P E A R A N C E S</p> <p>2 COUNSEL FOR THE PLAINTIFFS:</p> <p>3 MR. RICARDO GONZALEZ</p> <p>4 OXFORD &amp; GONZALEZ</p> <p>5 124 South 12th Avenue</p> <p>6 Edinburg, Texas 78539</p> <p>7 Tel: (956) 383-5654</p> <p>8 ric@oxfordandgonzalez.com</p> <p>9</p> <p>10 COUNSEL FOR THE DEFENDANT:</p> <p>11 MR. STEPHEN J. QUEZADA</p> <p>12 OGLETREE, DEAKINS, NASH, SMOAK &amp; STEWART, P.C.</p> <p>13 500 Dallas Street, Suite 3000</p> <p>14 Houston, Texas 77002</p> <p>15 Tel: (713) 655-5757</p> <p>16 stephen.quezada@ogletree.com</p> <p>17</p> <p>18 MS. LORENA D. VALLE</p> <p>19 PORTER HEDGES, LLP</p> <p>20 1000 Main Street, 36th Floor</p> <p>21 Houston, Texas 77002-6341</p> <p>22 Tel: (713) 226-6000</p> <p>23 lvalle@porterhedges.com</p> <p>24 MS. ELIZABETH SANDOVAL CANTU</p> <p>25 RAMON WORTHINGTON NICOLAS &amp; CANTU, PLLC</p> <p>1506 South Lone Star Way, Suite 5</p> <p>Edinburg, Texas 78539</p> <p>Tel: (945) 294-4800</p> <p>ecantu@ramonworthington.com</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Mr. Luis Gonzalez, Interpreter</p> <p>21 Mr. Rosendo Lievanos, Plaintiff</p> <p>22 Ms. Olga Perez, Plaintiff</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 3</p>	<p>1 P R O C E E D I N G S</p> <p>2 (Proceedings began at 10:26 a.m.)</p> <p>3 (Per agreement of all counsel, Federal</p> <p>4 Rule 30(b)(5) Read-On was waived.)</p> <p>5 THE REPORTER: On the record at 10:26 a.m.</p> <p>6 (Interpreter and Witness were sworn in.)</p> <p>7 LUIS ZUNIGA,</p> <p>8 having been duly sworn, testified through an Interpreter</p> <p>9 as follows:</p> <p>10 E X A M I N A T I O N</p> <p>11 BY MR. QUEZADA:</p> <p>12 Q. Good morning, Mr. Zuniga.</p> <p>13 A. Good morning.</p> <p>14 Q. My name is Stephen Quezada. I'm an attorney</p> <p>15 representing Delgar Foods, L.L.C. in this lawsuit.</p> <p>16 Okay?</p> <p>17 A. Okay.</p> <p>18 Q. And Delgar Foods goes by the d/b/a name of</p> <p>19 Delia's Tamales.</p> <p>20 A. Yes.</p> <p>21 Q. And are you okay if today when I refer to the</p> <p>22 Defendant in this case as Delia's, and you understand</p> <p>23 that I mean Delgar?</p> <p>24 A. Yes.</p> <p>25 Q. And even though we're in your attorney's</p> <p style="text-align: right;">Page 5</p>

<p>1 Q. So it's the same phone for nine years?</p> <p>2 A. I've had this phone for about three years.</p> <p>3 Q. What did you do to prepare for today's</p> <p>4 deposition?</p> <p>5 A. Nothing.</p> <p>6 Q. You didn't review any documents?</p> <p>7 A. No.</p> <p>8 Q. You didn't -- have you spoken to anyone about</p> <p>9 today's deposition?</p> <p>10 A. No.</p> <p>11 Q. Can you tell us, sir, what's the highest level</p> <p>12 of education you achieved?</p> <p>13 A. Primary school, that's all.</p> <p>14 Q. And primary school, is that -- what's</p> <p>15 the -- that was in Mexico?</p> <p>16 A. Yes.</p> <p>17 Q. What would be the United States equivalent?</p> <p>18 A. Well, we have six years in Mexico. I don't</p> <p>19 know how many we have here.</p> <p>20 Q. Okay. Why is it that you're suing Delia's?</p> <p>21 A. Unjustified termination, discrimination, and</p> <p>22 intimidation.</p> <p>23 Q. And those are the only reasons that you're</p> <p>24 suing Delia's, correct?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 10</p>	<p>1 A. No. Before it was with Compass.</p> <p>2 Q. Would you ever cash any of your paychecks?</p> <p>3 A. No.</p> <p>4 Q. Even though you received direct deposit, you</p> <p>5 still received a pay stub?</p> <p>6 A. Yes.</p> <p>7 Q. And how would you receive those?</p> <p>8 A. May the question be repeated.</p> <p>9 Q. Yes, sir. Thank you for asking.</p> <p>10 How would you receive the pay stub?</p> <p>11 A. In an envelope.</p> <p>12 Q. And in the envelope would just be the pay stub,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And what would you do with those pay stubs once</p> <p>16 you received them?</p> <p>17 A. Sometimes I'd store it.</p> <p>18 Q. Do you have any pay stubs from Delia's?</p> <p>19 A. Probably only about five. I got rid of the</p> <p>20 rest.</p> <p>21 Q. When you say you got rid of the rest, you would</p> <p>22 throw them away?</p> <p>23 A. Yes.</p> <p>24 Q. While you were working at Delia's, your</p> <p>25 position was that of a manager, correct?</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. And your employment with Delia's was from</p> <p>2 May 21st of 2017 until May 2nd of 2023, correct?</p> <p>3 A. I actually began working for them in 2014, but</p> <p>4 we were paid in cash so it's only registered in 2017</p> <p>5 when we started getting a check.</p> <p>6 Q. So beginning in 2017 is when you started</p> <p>7 receiving compensation by check, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And from 2017, some point in 2017, until the</p> <p>10 date your employment ended with Delia's, you received</p> <p>11 your pay by check; is that correct?</p> <p>12 A. Yes, with check.</p> <p>13 Q. And while you were receiving a check, you no</p> <p>14 longer receive any kind of cash payment; is that</p> <p>15 correct?</p> <p>16 A. Not anymore.</p> <p>17 Q. And your checks, would you receive a physical</p> <p>18 check or direct deposit?</p> <p>19 A. Direct deposit.</p> <p>20 Q. And that is into your bank account?</p> <p>21 A. Yes.</p> <p>22 Q. And what's the name of your bank?</p> <p>23 A. PNC.</p> <p>24 Q. And has that been your bank since you started</p> <p>25 receiving checks from Delia's in 2017?</p> <p style="text-align: right;">Page 11</p>	<p>1 A. I first, I start as an employee, then two years</p> <p>2 after I was made in a manager.</p> <p>3 Q. Okay. So at some point in about 2019 you</p> <p>4 became a manager?</p> <p>5 A. Yep.</p> <p>6 Q. And that promotion was a good thing, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And once you became a manager, you started</p> <p>9 earning a salary, correct?</p> <p>10 A. Yes, a salary.</p> <p>11 Q. And that was about how much per week?</p> <p>12 A. I was making 750 at first, and then it started</p> <p>13 increasing.</p> <p>14 Q. 750 per week?</p> <p>15 A. Yes.</p> <p>16 Q. And that's \$750 per week, correct?</p> <p>17 A. Yes. Then it started increasing.</p> <p>18 Q. Okay. And what was your final salary when you</p> <p>19 separated from Delia's?</p> <p>20 A. \$1,120.</p> <p>21 Q. And you also received health insurance</p> <p>22 benefits, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And Delia's paid for those, the company?</p> <p>25 A. I think so.</p> <p style="text-align: right;">Page 13</p>

<p>1 Q. And you also had vision and dental insurance; 2 is that correct? 3 A. Only vision. 4 Q. Okay. And did Delia's, the company, pay for 5 that as well? 6 A. Yes. 7 Q. Was dental offered to you and you just declined 8 it, or why didn't you do -- why did you choose not to do 9 dental? 10 A. Because I didn't need it. 11 Q. Okay. I'd like to ask you about your final 12 salary, just a couple more questions. I believe you 13 told us that your last salary at Delia's at the time you 14 were terminated was 1,120 per week? 15 A. Yes. 16 Q. And you also received bonuses from Delia's? 17 A. Yes. 18 Q. How much would those bonuses be? 19 A. First, it was 8,000 and then 10,000. 20 Q. And when would you receive that bonus? 21 A. Like, the first week of January. 22 Q. So about what would you say would be your total 23 annual compensation from Delia's? 24 A. No clue. 25 Q. While you were employed by Delia's, you also</p> <p style="text-align: right;">Page 14</p>	<p>1 A. Yes, the only one. 2 Q. Just so that I'm clear, that's the only store 3 where you worked once you were promoted to manager, 4 correct? 5 A. Yes. 6 Q. And above the manager position is the 7 supervisor position? 8 A. Yes. 9 Q. And who was your supervisor? 10 A. Luis Briones. 11 Q. So is it appropriate to say that you were the 12 manager of the San Juan store? 13 A. Manager. 14 Q. Correct? 15 A. Yes. 16 Q. So in addition to -- well, let's talk about how 17 you supervised these 30 to 35 employees. Okay? 18 A. Okay. 19 Q. You could hire those employees, correct? 20 A. No. 21 Q. Would you interview those employees? 22 A. No. 23 Q. If an employee walked in and said, I'd like to 24 work here, you wouldn't be able to interview or make a 25 decision to hire them?</p> <p style="text-align: right;">Page 16</p>
<p>1 received two weeks of paid vacation, correct? 2 A. Correct. 3 Q. And you'd take those paid vacations? 4 A. Yes. 5 Q. While you were working for Delia's, did you 6 have any periods of times where you were absent, other 7 than vacation periods? 8 A. No. 9 Q. So as a manager, you supervised two or more 10 full-time employees, correct? 11 A. Yes. 12 Q. Was it just two or was it more than two? 13 A. It was like 30 to 35 people. 14 Q. And those were 30 to 35 full-time employees? 15 A. Yes. 16 Q. And you managed a particular store; is that 17 correct? 18 A. No. 19 Q. Would you go to different stores? 20 A. No. 21 Q. So what -- what locations did you work as a 22 manager? 23 A. San Juan. 24 Q. Was that the only store where you worked while 25 you were employed for Delia's?</p> <p style="text-align: right;">Page 15</p>	<p>1 A. No. 2 Q. Did you ever recommend that anyone be hired? 3 A. No. 4 Q. Did you ever make a decision to fire anyone? 5 A. No. 6 Q. Did you ever make a recommendation about firing 7 someone? 8 A. No. 9 Q. Did you know that you had authority to hire or 10 fire employees? 11 A. I know I did have but this -- the supervisor 12 didn't give me that authority. 13 Q. So let me break that down a little bit. 14 Okay. You knew you had the authority to 15 hire and fire, correct? 16 A. Supervisor would interview them and I would 17 hire them. 18 Q. Okay. I'm going to get to what the supervisor 19 would do okay. 20 A. Yes. 21 Q. I'm saying that you're aware that as a manager, 22 you had the authority to hire and fire, correct? 23 MR. GONZALEZ: Object to the form of the 24 question. 25 Q. (By Mr. Quezada) And I get that you're saying</p> <p style="text-align: right;">Page 17</p>

<p>1 I, LUIS ZUNIGA, have read the foregoing  2 deposition and hereby affix my signature that same is  3 true and correct, except as noted above.  4  5  6 _____  7 LUIS ZUNIGA  8 THE STATE OF TEXAS)  9 COUNTY OF _____)  10 Before me, _____, on  11 this day personally appeared LUIS ZUNIGA, known to me  12 (or proved to me under oath or through  13 _____) (description of identity card or  14 other document) to be the person whose name is  15 subscribed to the foregoing instrument and acknowledged  16 to me that they executed the same for the purposes and  17 consideration therein expressed.  18 Given under my hand and seal of office this  19 _____ day of _____, 2024.  20  21 _____  22 Notary Public in and for  23 The State of Texas  24  25</p> <p style="text-align: right;">Page 50</p>	<p>by the officer and that the transcript of the oral  52  1 deposition is a true record of the testimony given by  the witness;  2  I further certify that pursuant to FRCP Rule  3 30(f)(1) that the signature of the deponent:  4 ___X___ was requested by the deponent or a party  before the completion of the deposition and that the  5 signature is to be before any notary public and returned  within 30 days from date of receipt of the transcript.  6 If returned, the attached Changes and Signature Page  contains any changes and the reasons therefor;  7  ___ was not requested by the deponent or a party  8 before the completion of the deposition.  9 I further certify that I am neither counsel  for, related to, nor employed by any of the parties or  10 attorney in the action in which this proceeding was  taken, and further that I am not financially or  11 otherwise interested in the outcome of the action.  12 Certified to by me this 10th day of July, 2024.  13  14  15    16 Anica Diaz, Texas Commission (21), RPR, CRR  Expiration Date: 08-31-24  17 Veritext Legal Solutions  Firm Registration No. 571  18 300 Throckmorton Street, Suite 1600  Fort Worth, Texas 76102  19  20  21  22  23  24  25</p> <p style="text-align: right;">Page 52</p>
<p>1 IN THE UNITED STATES DISTRICT COURT  FOR THE SOUTHERN DISTRICT OF TEXAS  2 MCALLEN DIVISION  3 JUANA CRUZ, OFELIA )  BENAVIDES, JOSE ELIAS N.G. )  4 GABRIELA VELAZQUEZ, )  RICARDO GONZALEZ, HELESIO )  5 CRUZ, ANGELICA CHAVEZ, )  CONCEPCION PEREZ, OLGA )  6 PEREZ, MAVRIGO SAENZ, )  JORGE MAOLEON, HECTOR )  7 SANCHEZ, HECTOR GONZALEZ, )  YESSY PEREZ-MARTINEZ, )  8 MARIA DE LOURDES CRUZ, )  RESENDON LIEVANOS, )  9 ELIZABETH LARA, LUIS )  ALBERTO ZUNIGIA-CASTILLO, ) CIVIL ACTION  10 MIGUEL CABALLERO SANCHEZ, ) NO. 7:23-CV-00343  GUILLERMO DE LA )  11 CRUZ-MENDOZA, CARLOS )  DANIEL LOPEZ, GILDA RIVAS, ) JURY DEMANDED  12 ARMANDO MORALES DE LLANO, )  LAZARO GARCIA, MARIA DE )  13 JESUS MEDINA, RICARDO )  ESQUIVEL, RAFAEL SANCHEZ, )  14 GUILLERMO RUIZ, ROSA )  QUINTANILLA, )  15 )  PLAINTIFFS, )  16 )  VS. )  17 )  DELGAR FOODS LLC A/K/A )  18 DELIA'S TAMALES, )  ) )  19 DEFENDANT. )  20 *****  21 REPORTER'S CERTIFICATION  DEPOSITION OF LUIS ZUNIGA  22 June 28, 2024  23 I, Anica Diaz, Certified Shorthand Reporter in  and for the State of Texas, hereby certify to the  24 following:  25 That the witness, LUIS ZUNIGA, was duly sworn</p> <p style="text-align: right;">Page 51</p>	<p>1 Ricardo Gonzalez - ric@oxfordandgonzalez.com  2 July 10, 2024  3 RE: Cruz, Juana, Et Al v. Delgar Foods LLC, Et Al.  4 DEPOSITION OF: Luis Zuniga (# 6734289)  5 The above-referenced witness transcript is  6 available for read and sign.  7 Within the applicable timeframe, the witness  8 should read the testimony to verify its accuracy. If  9 there are any changes, the witness should note those  10 on the attached Errata Sheet.  11 The witness should sign and notarize the  12 attached Errata pages and return to Veritext at  13 errata-tx@veritext.com.  14 According to applicable rules or agreements, if  15 the witness fails to do so within the time allotted,  16 a certified copy of the transcript may be used as if  17 signed.  18 Yours,  19 Veritext Legal Solutions  20  21  22  23  24  25</p> <p style="text-align: right;">Page 53</p>